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6 **UNITED STATES DISTRICT COURT**
FOR THE
7 **DISTRICT OF NEW JERSEY**

8 ANNEMARIE WILSON,)
9 Plaintiff)
10 v.) **Case No.:**
11 ASSET ACCEPTANCE, LLC,) **COMPLAINT AND DEMAND FOR**
12 Defendant) **JURY TRIAL**
) **(Unlawful Debt Collection Practices)**
13)

14 **COMPLAINT**

15 ANNEMARIE WILSON (“Plaintiff”), by and through her attorneys, KIMMEL &
16 SILVERMAN, P.C., alleges the following against ASSET ACCEPTANCE, LLC (“Defendant”):

17 **INTRODUCTION**

18 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15
19 U.S.C. § 1692 *et seq.* (“FDCPA.”)

20 **JURISDICTION AND VENUE**

21 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states
22 that such actions may be brought and heard before “any appropriate United States district court
23 without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original
24 jurisdiction of all civil actions arising under the laws of the United States.
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1 14. Plaintiff told Defendant's representatives, on a daily basis, to stop calling her as
2 the person they were seeking to contact could not be reached at her telephone number.

3 15. However, despite this request Defendant continued to call Plaintiff.

4 16. As set forth in paragraph 14, Defendant had been provided actual knowledge that
5 the person it sought to contact could not be reached at Plaintiff's telephone number.

6 17. Defendant had not obtained any information to contradict the notice given by
7 Plaintiff as set forth in paragraph 14.

8 18. Defendant's continued calls and other contacts with Plaintiff therefore could only
9 have been engaged in with the intent to harass her, perhaps in hopes she would rather pay the
10 debt of another to stop the calls, than to continue to receive calls.

11 19. Defendant's collectors used methods which were unlawful during the calls, by
12 among other things, failing to identify themselves and refusing to provide an address for Plaintiff
13 to correspond with Defendant by U.S. Mail.

14 20. Calls persisted throughout the first half of 2012.

15 21. On or about June 2012, Plaintiff was able to speak with a supervising collector of
16 Defendant to complain about the continued calling, was assured that Defendant's records would
17 be corrected, and that she would not be contacted by Defendant anymore. However, despite
18 these assurances, Defendant continued to call Plaintiff.

19 22. It is apparent that Defendant failed to investigate the information provided by
20 Plaintiff at any time, and failed to update its records to avoid the further harassment.

21 23. Plaintiff has never received anything in writing from Defendant to describe the
22 alleged debt, or provide her with notification of her rights under the FDCPA.
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1 **COUNT I**
2 **DEFENDANT VIOLATED § 1692d OF THE**
3 **FAIR DEBT COLLECTION PRACTICES ACT**

4 24. Section 1692d of the FDCPA prohibits debt collectors from engaging in any
5 conduct the natural consequence of which is to harass, oppress or abuse any person, in
6 connection with the collection of a debt.

7 25. Defendant violated § 1692d of the FDCPA when it called Plaintiff repeatedly and
8 continuously, when it continued to contact Plaintiff even after Plaintiff told Defendant that it was
9 contacting the wrong person, and when it engaged in other harassing or abusive conduct.

10 **COUNT II**
11 **DEFENDANT VIOLATED § 1692d(5) OF THE**
12 **FAIR DEBT COLLECTION PRACTICES ACT**

13 26. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a
14 telephone to ring or engaging any person in telephone conversation repeatedly or continuously
15 with the intent to annoy, abuse or harass any person at the called number.

16 27. Defendant violated § 1692d(5) of the FDCPA when it caused Plaintiff's telephone
17 to ring repeatedly and continuously with the intent to harass or annoy Plaintiff.

18 **COUNT III**
19 **DEFENDANT VIOLATED § 1692d(6) OF THE**
20 **FAIR DEBT COLLECTION PRACTICES ACT**

21 28. Section 1692d(6) of the FDCPA prohibits debt collectors from making the
22 placement of telephone calls without meaningful disclosure of the caller's identity.

23 29. Defendant violated § 1692d(6) of the FDCPA when its representatives called
24 Plaintiff but refused to provide their identity.
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COUNT IV
DEFENDANT VIOLATED § 1692e OF THE
FAIR DEBT COLLECTION PRACTICES ACT

30. Section 1692e of the FDCPA prohibits debt collectors from using false, deceptive or misleading representations or means in connection with the collection of any debt.

31. Defendant violated § 1692e of the FDCPA when it continued to pursue an alleged debt against Plaintiff even after it was told that it had the wrong person and it was not Plaintiff's debt, when it attempted to collect a debt that Plaintiff did not owe, when its collectors failed to identify themselves, and when it made other false, deceptive or misleading representations.

COUNT V
DEFENDANT VIOLATED § 1692e(2)(A) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

32. Section 1692e(2)(A) of the FDCPA prohibits debt collectors from making a false representation as to the character, amount, or legal status of any debt.

33. Defendant violated § 1692e(2)(A) of the FDCPA when its collectors continued to attempt to collect an alleged debt from Plaintiff even after she clearly told the collectors that she did not owe this debt, and that the debt was that of another person.

COUNT VI
DEFENDANT VIOLATED § 1692e(10) OF THE
FAIR DEBT COLLECTION PRACTICES ACT

34. Section 1692e(10) of the FDCPA prohibits debt collectors from using false, deceptive or misleading representations or means in connection with the collection of any debt.

35. Defendant violated § 1692e(10) of the FDCPA when it continued to pursue an

1 alleged debt against Plaintiff even after it was told that it had the wrong person and it was not
2 Plaintiff's debt, when it attempted to collect a debt that Plaintiff did not owe, when its collectors
3 failed to identify themselves, and when it made other false, deceptive or misleading
4 representations.

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6 **COUNT VII**
7 **DEFENDANT VIOLATED § 1692f(1) OF THE**
8 **FAIR DEBT COLLECTION PRACTICES ACT**

9 36. Section 1692f(1) of the FDCPA prohibits the collection of any amount unless
10 such amount is expressly authorized or permitted by law.

11 37. Defendant violated § 1692f(1) of the FDCPA when it attempted to collect an
12 alleged debt from Plaintiff with knowledge that this debt was the debt of another, and as such,
13 was not permitted by law.

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15 **COUNT VIII**
16 **DEFENDANT VIOLATED § 1692g(a) OF THE**
17 **FAIR DEBT COLLECTION PRACTICES ACT**

18 38. Section 1692g(a) of the FDCPA states that within five days after the initial
19 communication with a consumer in connection with the collection of any debt, a debt collector
20 shall send the consumer a written notice concerning the debt.

21 39. Defendant violated § 1692g(a) of the FDCPA when it failed to send anything in
22 writing to Plaintiff, as it was required to do so under the FDCPA, regarding the alleged debt.

1 WHEREFORE, Plaintiff, ANNEMARIE WILSON, respectfully prays for a judgment as
2 follows:

- 3 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
4 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
5 15 U.S.C. § 1692k(a)(2)(A);
6 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
7 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
8 d. Any other relief deemed appropriate by this Honorable Court.
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10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE that Plaintiff, ANNEMARIE WILSON, demands a jury trial
12 in this case.

13 RESPECTFULLY SUBMITTED,

14 DATED: 11/08/2012

15 KIMMEL & SILVERMAN, P.C.

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